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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 BARRY HALAJIAN; MARVIN SCOTT;
12 ADRIENNE SCOTT,

13 Plaintiffs,

14 vs.

15 RANDALL D. NAIMAN; NAIMAN LAW
16 GROUP, P.C.,

Defendants.

CASE NO. 11 CV 0628 MMA (MDD)

**ORDER RE: PLAINTIFF BARRY
HALAJIAN'S NOTICE OF
INTENT TO PROCEED**

[Doc. No. 16]

17 On March 29, 2011, Plaintiffs Barry Halajian, Marvin Scott and Adrienne Scott
18 commenced this purported class action against Defendants Randall D. Naiman and Naiman Law
19 Group, P.C. [Doc. No. 1.] Two days later, Plaintiffs filed a First Amended Complaint ("FAC").
20 [Doc. No. 3.] The docket does not reflect that Plaintiffs served either Defendant. However, on
21 April 28, 2011, Defendants filed a motion to dismiss the FAC pursuant to, *inter alia*, Federal Rule
22 of Civil Procedure 12(b)(6) and California Code of Civil Procedure section 425.16. [Doc. No. 4.]
23 Plaintiffs did not file an opposition to the motion.

24 On June 2, 2011, the Court granted Defendants' motion to dismiss, noting that Plaintiffs'
25 counsel, Michael T. Pines, was recently ordered involuntarily enrolled as an inactive member of
26 the State Bar. [Doc. No. 14.] The Court dismissed the FAC without prejudice, and instructed
27 Plaintiffs that if they wished to proceed, within thirty days, they needed to either: (a) file a notice
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1 of substitution of counsel naming a new attorney who will represent them; or (b) file a notice of
2 their intent to represent themselves and to proceed *pro se*.

3 On June 28, 2011, Plaintiff Barry Halajian filed a notice of his intent to proceed with this
4 action. [Doc. No. 16.] Mr. Halajian indicated he is still looking for new counsel, and requested
5 sixty additional days to review the FAC and file an amended complaint or retain counsel. Mr.
6 Halajian further noted he did not have any contact information for co-plaintiffs Marvin Scott and
7 Adrienne Scott, and suggested the Court may have additional information.¹

8 In light of Plaintiff Barry Halajian's notice, he is granted an additional **forty-five (45) days**
9 from the date of this Order to obtain new counsel and/or file a Second Amended Complaint. If
10 Mr. Halajian is unable to retain new counsel before the expiration of the forty-five days, he must
11 still file a Second Amended Complaint and proceed *pro se* if he wishes to pursue this action. As
12 the Court previously advised Plaintiffs, if Mr. Halajian proceeds *pro se*, as he is now doing, as a
13 non-attorney, he may appear individually on his own behalf, but he has no authority to appear as
14 an attorney for anyone other than himself. *Johns v. County of San Diego*, 114 F.3d 874, 877 (9th
15 Cir. 1997); *see also* Fed. R. Civ. Proc. 11(a) ("Every pleading, written motion, and other paper
16 shall be signed by at least one attorney of record in the attorney's original name, or if the party is
17 not represented by an attorney, shall be signed by the party."). Thus, the case cannot proceed as a
18 purported class action unless Mr. Halajian obtains new counsel.

19 With respect to the remaining Plaintiffs Marvin Scott and Adrienne Scott, they have not
20 filed a notice regarding their intention to proceed with this action. Accordingly, pursuant to the
21 terms of the Court's June 2, 2011 Order, Plaintiffs Marvin Scott's and Adrienne Scott's claims are
22 **DISMISSED WITH PREJUDICE**. Plaintiffs are responsible for moving their case forward
23 toward resolution on the merits, and the case cannot progress absent participation by the named
24 Plaintiffs. The Clerk of Court is therefore instructed to terminate Plaintiffs Marvin Scott and
25 Adrienne Scott, and reopen the case with respect to Barry Halajian only.

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28 ¹ The Court has no information regarding these Plaintiffs, except what is published on the docket and publically available.

1 **IT IS FURTHER ORDERED** that if Mr. Halajian, or his new counsel of record, does not
2 file a Second Amended Complaint within **forty-five (45) days** from the date of this Order, the
3 action will be dismissed with prejudice.

4 **IT IS SO ORDERED.**

5 DATED: July 5, 2011

A handwritten signature in black ink, reading "Michael M. Anello", written over a horizontal line.

Hon. Michael M. Anello
United States District Judge